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7 SABAS PINTOR, et al.,  
8 Plaintiffs,  
9 v.  
10 LIBERTY MUTUAL INSURANCE  
11 COMPANY,  
12 Defendant.

Case No. 22-cv-02878-JSC

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18 **ORDER RE: MOTION FOR LEAVE TO  
19 AMEND**

20 Re: Dkt. No. 39

21 Plaintiffs filed suit in state court against Liberty Mutual Insurance Co., which insured  
22 Plaintiffs' landlord Dora Alacon-Villeda against whom they had obtained default judgments.  
23 (Dkt. No. 1 at 6–10.)<sup>1</sup> Liberty removed to federal court, asserting federal subject matter  
24 jurisdiction on the basis of diversity, (*id.* at 2): Plaintiffs are California residents and Liberty is  
25 incorporated under the laws of Massachusetts with its principal place of business there. *See*  
26 *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005).

27 Plaintiffs now seek to add a non-diverse defendant, Marcos M. Villeda, a co-landlord and a  
28 California resident. (Dkt. No. 39; *see* Dkt. No. 34 at 5 (ordering that Plaintiffs may otherwise  
freely amend the complaint to address Liberty's arguments in support of dismissal).) Having  
carefully considered the briefing, the Court concludes that oral argument is unnecessary, *see* N.D.  
Cal. Civ. L.R. 7-1(b), VACATES the September 15, 2022 hearing, and DENIES the motion.

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30 **DISCUSSION**

31 “Once removal has occurred, the district court has two options in dealing with an attempt  
32 to join a nondiverse party. . . . [T]he court may deny joinder, or permit joinder and remand the

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38 <sup>1</sup> Record citations are to material in the Electronic Case File (“ECF”); pinpoint citations are to the  
ECF-generated page numbers at the top of the documents.

1 action to the State court.” *Morris v. Princess Cruises, Inc.*, 236 F.3d 1061, 1068 (9th Cir. 2001)  
2 (cleaned up)); *see* 28 U.S.C. § 1447(e). The “decision regarding joinder of a diversity destroying  
3 defendant is left to the discretion of the district court,” *Newcombe v. Adolf Coors Co.*, 157 F.3d  
4 686, 691 (9th Cir. 1998), guided by six factors:

5 (1) whether the party sought to be joined is needed for just  
6 adjudication and would be joined under Federal Rule of Civil  
7 Procedure 19(a); (2) whether the statute of limitations would preclude  
8 an original action against the new defendants in state court; (3)  
9 whether there has been unexplained delay in requesting joinder; (4)  
whether joinder is intended solely to defeat federal jurisdiction; (5)  
whether the claims against the new defendant appear valid; and (6)  
whether denial of joinder will prejudice the plaintiff.

10 *IBC Aviation Servs., Inc. v. Compania Mexicana de Aviacion, S.A. de C.V.*, 125 F. Supp. 2d 1008,  
11 1011 (N.D. Cal. 2000).

12 Plaintiffs argue that the joinder of Mr. Villeda is not intended to defeat federal jurisdiction,  
13 but their motion does not otherwise address the factors and they did not file a reply. As best the  
14 Court can glean, the factors do not favor joinder. Mr. Villeda is not a required party under Rule  
15 19(a) because, without him, the Court could grant complete relief to Plaintiffs with respect to  
16 Liberty’s insuring Ms. Alacon-Villeda. *See San Jose Neurospine v. Cigna Health & Life Ins. Co.*,  
17 No. 16-CV-05061-LHK, 2016 WL 7242139, at \*7–8 (N.D. Cal. Dec. 15, 2016). Plaintiffs have  
18 obtained default judgments against Ms. Alacon-Villeda, not against Mr. Villeda, such that the  
19 proposed first amended complaint’s claims against him are only tangentially related to their claims  
20 against Liberty. *See Adams v. BMW of N. Am., LLC*, No. 17CV0068-MMA (KSC), 2017 WL  
21 3822014, at \*3 (S.D. Cal. Sept. 1, 2017) (“While facts pertaining to repairs may be relevant in  
22 demonstrating that the subject vehicle was defective at the time of sale or that Defendant breached  
23 an express warranty, Plaintiff’s proffered cause of action against GMG Motors is no more than  
24 tangentially related to Plaintiff’s warranty causes of action.”).

25 There has also been an unexplained delay in requesting joinder, given that Plaintiffs knew  
26 of Mr. Villeda and his potential involvement in the fire that gave rise to their insurance dispute.  
27 *See Murphy v. Am. Gen. Life Ins. Co.*, 74 F. Supp. 3d 1267, 1282 (C.D. Cal. 2015) (“[A] court has  
28 discretion to deny joinder of a party whose identity was ascertainable and thus could have been

1 named in the first complaint.” (cleaned up)). Indeed, Plaintiffs named both Ms. Alacon-Villeda  
2 and Mr. Villeda in their June 2019 state court case, but dismissed Mr. Villeda before obtaining  
3 default judgments against Ms. Alacon-Villeda. (See Dkt. Nos. 19-1 at 4, 9, 11–12.) Plaintiffs’  
4 counsel’s long COVID memory problems do not explain that delay. And the delay suggests that  
5 the purpose of joinder is to defeat diversity jurisdiction here.

6 In sum, Plaintiffs have not persuaded the Court to exercise its discretion to permit joinder.  
7 Accordingly, their motion for leave to amend to name Mr. Villeda is DENIED. On or before  
8 September 29, 2022, Plaintiffs shall file an updated version of their proposed first amended  
9 complaint, (Dkt. No. 39-2; *see* Dkt. No. 34 at 5), that names only Liberty.

10 This Order disposes of Docket No. 39.

11 **IT IS SO ORDERED.**

12 Dated: September 13, 2022

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United States District Court  
Northern District of California

  
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JACQUELINE SCOTT CORLEY  
United States District Judge